



November 1, 2018

VIA FOIAONLINE.REGULATIONS.GOV

U.S. Environmental Protection Agency

Re: Freedom of Information Act Request: Malathion Follow-Up Usage Data

Dear FOIA Officer:

This is a request under the Freedom of Information Act, 5 U.S.C. § 552, *as amended* (“FOIA”), from the Center for Biological Diversity (“Center”), a non-profit organization that works to secure a future for all species hovering on the brink of extinction through science, law, and creative media, and to fulfill the continuing educational goals of its membership and the general public in the process.

REQUESTED RECORDS

The Center requests the following from the U.S. Environmental Protection Agency (“EPA”) from November 14, 2017 to the date EPA conducts this search:

1. All records of communication between EPA and any malathion registrants discussing malathion usage data as described in the Gary Frazer. See Attachment A (Gary Frazer’s Declaration); and
2. All records of communication between EPA and any other outside stakeholder organization including but not limited to the American Mosquito Control Association, discussing malathion usage data described in the Gary Frazer. See Attachment A.

For this request, the term “records” refers to, but is not limited to, any and all documents, correspondence (including, but not limited to, inter and/or intra-agency correspondence as well as correspondence with entities or individuals outside the federal government), emails, letters, notes, recordings, telephone records, voicemails, telephone notes, telephone logs, text messages, chat messages, minutes, memoranda, comments, files, presentations, consultations, biological opinions, assessments, evaluations, schedules, papers published and/or unpublished, reports, studies, photographs and other images, data (including raw data, GPS or GIS data, UTM, LiDAR, etc.), maps, and/or all other responsive records, in draft or final form.

This request is not meant to exclude any other records that, although not specially requested, are reasonably related to the subject matter of this request. If you or your office have destroyed or determine to withhold any records that could be reasonably construed to be responsive to this request, I ask that you indicate this fact and the reasons therefore in your response.

Under the FOIA Improvement Act of 2016, agencies are prohibited from denying requests for information under FOIA unless the agency reasonably believes release of the information will harm an interest that is protected by the exemption. FOIA Improvement Act of 2016 (Public Law No. 114-185), codified at 5 U.S.C. § 552(a)(8)(A).

Should you decide to invoke a FOIA exemption, please include sufficient information for us to assess the basis for the exemption, including any interest(s) that would be harmed by release. Please include a detailed ledger which includes:

1. Basic factual material about each withheld record, including the originator, date, length, general subject matter, and location of each item; and
2. Complete explanations and justifications for the withholding, including the specific exemption(s) under which the record (or portion thereof) was withheld and a full explanation of how each exemption applies to the withheld material. Such statements will be helpful in deciding whether to appeal an adverse determination. Your written justification may help to avoid litigation.

If you determine that portions of the records requested are exempt from disclosure, we request that you segregate the exempt portions and mail the non-exempt portions of such records to my attention at the address below within the statutory time limit. 5 U.S.C. § 552(b).

The Center is willing to receive records on a rolling basis.

Finally, FOIA's "frequently requested record" provision was enacted as part of the 1996 Electronic Freedom of Information Act Amendments, and requires all federal agencies to give "reading room" treatment to any FOIA-processed records that, "because of the nature of their subject matter, the agency determines have become the subject of subsequent requests for substantially the same records." *See* 5 U.S.C. § 552(a)(2)(D)(ii)(I). Also, enacted as part of the 2016 FOIA Improvement Act, FOIA's Rule of 3 requires all federal agencies to proactively "make available for public inspection in an electronic format" "copies of records, regardless of form or format ... that have been released to any person ... and ... that have been requested 3 or more times." 5 U.S.C. § 552(a)(2)(D)(ii)(II). Therefore, we respectfully request that you make available online any records that the agency determines will become the subject of subsequent requests for substantially the same records, and records that have been requested three or more times.

FORMAT OF REQUESTED RECORDS

Under FOIA, you are obligated to provide records in a readily accessible electronic format and in the format requested. *See, e.g.,* 5 U.S.C. § 552(a)(3)(B) ("In making any record available to a person under this paragraph, an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format."). "Readily accessible" means text-searchable and OCR-formatted. *See* 5 U.S.C. § 552(a)(3)(B). Pursuant to this requirement, we hereby request that you produce all records in an electronic format and in their native file formats. Additionally, please provide the records in a load-ready

format with a CSV file index or Excel spreadsheet. If you produce files in .PDF format, then please omit any “portfolios” or “embedded files.” Portfolios and embedded files within files are not readily accessible. Please do not provide the records in a single, or “batched,” .PDF file. We appreciate the inclusion of an index.

If you should seek to withhold or redact any responsive records, we request that you: (1) identify each such record with specificity (including date, author, recipient, and parties copied); (2) explain in full the basis for withholding responsive material; and (3) provide all segregable portions of the records for which you claim a specific exemption. 5 U.S.C. § 552(b). Please correlate any redactions with specific exemptions under FOIA.

RECORD DELIVERY

We appreciate your help in expeditiously obtaining a determination on the requested records. As mandated in FOIA, we anticipate a reply within 20 working days. 5 U.S.C. § 552(a)(6)(A)(i); 5 C.F.R. § 1303.10(c). Failure to comply within the statutory timeframe may result in the Center taking additional steps to ensure timely receipt of the requested materials. Please provide a complete reply as expeditiously as possible. You may email or mail copies of the requested records to:

Ann K. Brown
Center for Biological Diversity
P.O. Box 11374
Portland, OR 97211
foia@biologicaldiversity.org

If you find that this request is unclear, or if the responsive records are voluminous, please email me to discuss the scope of this request.

REQUEST FOR FEE WAIVER

FOIA was designed to provide citizens a broad right to access government records. FOIA’s basic purpose is to “open agency action to the light of public scrutiny,” with a focus on the public’s “right to be informed about what their government is up to.” *NARA v. Favish*, 541 U.S. 157, 171 (2004) quoting *U.S. Dep’t of Justice v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 773-74 (1989) (internal quotation and citations omitted). In order to provide public access to this information, FOIA’s fee waiver provision requires that “[d]ocuments shall be furnished without any charge or at a [reduced] charge,” if the request satisfies the standard. 5 U.S.C. § 552(a)(4)(A)(iii). FOIA’s fee waiver requirement is “liberally construed.” *Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1310 (D.C. Cir. 2003); *Forest Guardians v. U.S. Dept. of Interior*, 416 F.3d 1173, 1178 (10th Cir. 2005).

The 1986 fee waiver amendments were designed specifically to provide non-profit organizations such as the Center access to government records without the payment of fees. Indeed, FOIA’s fee waiver provision was intended “to prevent government agencies from using high fees to discourage certain types of requesters and requests,” which are “consistently associated with

requests from journalists, scholars, and *non-profit public interest groups*.” *Ettlinger v. FBI*, 596 F.Supp. 867, 872 (D. Mass. 1984) (emphasis added). As one Senator stated, “[a]gencies should not be allowed to use fees as an offensive weapon against requesters seeking access to Government information” 132 Cong. Rec. S. 14298 (statement of Senator Leahy).

I. The Center Qualifies for a Fee Waiver.

Under FOIA, a party is entitled to a fee waiver when “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the [Federal] government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). EPA’s regulations at 40 C.F.R. § 2.107(l)(1)-(3) establish the same standard.

Thus, EPA must consider four factors to determine whether a request is in the public interest: (1) whether the subject of the requested records concerns “the operations or activities of the Federal government,” (2) whether the disclosure is “likely to contribute” to an understanding of government operations or activities, (3) whether the disclosure “will contribute to public understanding” of a reasonably broad audience of persons interested in the subject, and (4) whether the disclosure is likely to contribute “significantly” to public understanding of government operations or activities. 7 C.F.R. Part 1, Subpart A, Appendix A, Section 6(a)(i)—(iv). As shown below, the Center meets each of these factors.

A. The Subject of This Request Concerns “The Operations and Activities of the Government.”

The subject matter of this request concerns the operations and activities of EPA. This request asks for: from November 14, 2017 to the date EPA conducts this search (1) all records of communication between EPA and any malathion registrants discussing malathion usage data as described in the Gary Frazer. *See Attachment A*; and (2) all records of communication between EPA and any other outside stakeholder organization including but not limited to the American Mosquito Control Association, discussing malathion usage data described in the Gary Frazer. *See id.*

This FOIA will provide the Center and the public with crucial insight into the collection of data concerning pesticides. It is clear that a federal agency’s collecting data about federally regulated pesticides is a specific and identifiable activity of the government, and in this case it is the executive branch agency of EPA. *Judicial Watch*, 326 F.3d at 1313 (“[R]easonable specificity is all that FOIA requires with regard to this factor”) (internal quotations omitted). Thus, the Center meets this factor.

B. Disclosure is “Likely to Contribute” to an Understanding of Government Operations or Activities.

The requested records are meaningfully informative about government operations or activities and will contribute to an increased understanding of those operations and activities by the public.

Disclosure of the requested records will allow the Center to convey to the public information about accurate pesticides data that would actually inform better, more accurate protections for human health, endangered species, and the environment. Once the information is made available, the Center will analyze it and present it to its over one million members and online activists and the general public in a manner that will meaningfully enhance the public's understanding of this topic.

Thus, the requested records are likely to contribute to an understanding of EPA's operations and activities.

C. Disclosure of the Requested Records Will Contribute to a Reasonably-Broad Audience of Interested Persons' Understanding of Malathion Follow-Up Usage Data.

The requested records will contribute to public understanding of whether EPA's actions are consistent with its mission to "protect human health and the environment."¹ As explained above, the records will contribute to public understanding of this topic.

Activities of EPA generally, and specifically any pesticide usage data collected are areas of interest to a reasonably broad segment of the public. The Center will use the information it obtains from the disclosed records to educate the public at large. *See W. Watersheds Proj. v. Brown*, 318 F.Supp.2d 1036, 1040 (D. Idaho 2004) ("... find[ing] that WWP adequately specified the public interest to be served, that is, educating the public about the ecological conditions of the land managed by the BLM and also how ... management strategies employed by the BLM may adversely affect the environment.").

Through the Center's synthesis and dissemination (by means discussed in Section II, below), disclosure of information contained in and gleaned from the requested records will contribute to a broad audience of persons who are interested in the subject matter. *Ettlinger v. FBI*, 596 F.Supp. at 876 (benefit to a population group of some size distinct from the requester alone is sufficient); *Carney v. Dep't of Justice*, 19 F.3d 807, 815 (2d Cir. 1994), *cert. denied*, 513 U.S. 823 (1994) (applying "public" to require a sufficient "breadth of benefit" beyond the requester's own interests); *Cnty. Legal Servs. v. Dep't of Hous. & Urban Dev.*, 405 F.Supp.2d 553, 557 (E.D. Pa. 2005) (in granting fee waiver to community legal group, court noted that while the requester's "work by its nature is unlikely to reach a very general audience," "there is a segment of the public that is interested in its work").

Indeed, the public does not currently have an ability to easily evaluate the requested records, which are not currently in the public domain. *See Cnty. Legal Servs. v. HUD*, 405 F.Supp.2d 553, 560 (D. Pa. 2005) (because requested documents "clarify important facts" about agency policy, "the CLS request would likely shed light on information that is new to the interested public."). As the Ninth Circuit observed in *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1286 (9th Cir. 1987), "[FOIA] legislative history suggests that information [has

¹ EPA, *Our Mission and What We Do*, <https://www.epa.gov/aboutepa/our-mission-and-what-we-do> (last visited Nov. 1, 2018).

more potential to contribute to public understanding] to the degree that the information is new and supports public oversight of agency operations... .”²

Disclosure of these records is not only “likely to contribute,” but is certain to contribute to public understanding of pesticide usage data. The public is always well served when it knows how the government conducts its activities, particularly matters touching on legal questions. Hence, there can be no dispute that disclosure of the requested records to the public will educate the public about EPA’s pesticide usage data.

D. Disclosure is Likely to Contribute Significantly to Public Understanding of Government Operations or Activities.

The Center is not requesting these records merely for their intrinsic informational value. Disclosure of the requested records will significantly enhance the public’s understanding of accurate protections for human health, endangered species, and the environment, as compared to the level of public understanding that exists prior to the disclosure. Indeed, public understanding will be *significantly* increased as a result of disclosure because the requested records will help reveal more about pesticide usage data.

The records are also certain to shed light on EPA’s compliance with its own mission.³ Such public oversight of agency action is vital to our democratic system and clearly envisioned by the drafters of the FOIA. Thus, the Center meets this factor as well.

II. The Center has a Demonstrated Ability to Disseminate the Requested Information Broadly.

The Center is a non-profit organization that informs, educates, and counsels the public regarding environmental issues, policies, and laws relating to environmental issues. The Center has been substantially involved in the activities of numerous government agencies for over 25 years, and has consistently displayed its ability to disseminate information granted to it through FOIA.

In consistently granting the Center’s fee waivers, agencies have recognized: (1) that the information requested by the Center contributes significantly to the public’s understanding of the government’s operations or activities; (2) that the information enhances the public’s understanding to a greater degree than currently exists; (3) that the Center possesses the expertise to explain the requested information to the public; (4) that the Center possesses the ability to disseminate the requested information to the general public; (5) and that the news media recognizes the Center as an established expert in the field of imperiled species, biodiversity, and impacts on protected species. The Center’s track record of active participation in oversight of governmental activities and decision making, and its consistent contribution to the public’s

² In this connection, it is immaterial whether any portion of the Center’s request may currently be in the public domain because the Center requests considerably more than any piece of information that may currently be available to other individuals. *See Judicial Watch*, 326 F.3d at 1315.

³ *See supra* note 3.

understanding of those activities as compared to the level of public understanding prior to disclosure are well established.

The Center intends to use the records requested here similarly. The Center's work appears in more than 2,500 news stories online and in print, radio and TV per month, including regular reporting in such important outlets as *The New York Times*, *Washington Post*, *The Guardian*, and *Los Angeles Times*. Many media outlets have reported on the impact of toxic pesticides on human health utilizing information obtained by the Center from federal agencies, including EPA. In 2017, more than 2.7 million people visited the Center's extensive website, and viewed pages a total of 5.7 million times. The Center sends out more than 277 email newsletters and action alerts per year to more than over one million members and supporters. Three times a year, the Center sends printed newsletters to more than 68,000 members. More than 304,800 people have "liked" the Center on Facebook, and there are regular postings regarding environmental protection. The Center also regularly tweets to more than 57,900 followers on Twitter. The Center intends to use any or all of these far-reaching media outlets to share with the public information obtained as a result of this request.

Public oversight and enhanced understanding of EPA's duties is absolutely necessary. In determining whether disclosure of requested information will contribute significantly to public understanding, a guiding test is whether the requester will disseminate the information to a reasonably-broad audience of persons interested in the subject. *Carney v U.S. Dept. of Justice*, 19 F.3d 807 (2nd Cir. 1994). The Center need not show how it intends to distribute the information, because "[n]othing in FOIA, the [agency] regulation, or our case law require[s] such pointless specificity." *Judicial Watch*, 326 F.3d at 1314. It is sufficient for the Center to show how it distributes information to the public generally. *Id.*

III. Obtaining the Requested Records is of No Commercial Interest to the Center.

Access to government records, disclosure forms, and similar materials through FOIA requests is essential to the Center's role of educating the general public. Founded in 1994, the Center is a 501(c)(3) nonprofit conservation organization (EIN: 27-3943866) with more than over one million members and online activists dedicated to the protection of endangered and threatened species and wild places. The Center has no commercial interest and will realize no commercial benefit from the release of the requested records.

IV. Conclusion

For all of the foregoing reasons, the Center qualifies for a full fee waiver. We hope that EPA will immediately grant this fee waiver request and begin to search and disclose the requested records without any unnecessary delays.

If you have any questions, please contact me at foia@biologicaldiversity.org. All records and any related correspondence should be sent to my attention at the address below.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Ann K. Brown', with a stylized, flowing script.

Ann K. Brown
Open Government Coordinator
CENTER FOR BIOLOGICAL DIVERSITY
P.O. Box 11374
Portland, OR 97211-0374
foia@biologicaldiversity.org

Attachment

Attachment A (Gary Frazer's Declaration)

Attachment A

Exhibit P

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Environment & Natural Resources Division
SETH M. BARSKY, Chief
MEREDITH L. FLAX, Assistant Chief
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Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

CENTER FOR ENVIRONMENTAL)	Case No. 4:18-cv-03197-SBA
HEALTH, et al.,)	
)	DECLARATION OF GARY FRAZER
Plaintiffs,)	
)	
v.)	
)	
ANDREW WHEELER, in his official capacity)	
as Acting Administrator of the U.S.)	
Environmental Protection Agency, et al.,)	
)	
Defendants.)	

I, Gary Frazer, state the following:

1. I am the Assistant Director for the Ecological Services Program of the U.S. Fish and Wildlife Service ("FWS" or "Service"), an agency of the U.S. Department of the Interior ("DOI"), located in Washington, D.C. In my capacity as Assistant Director, I am responsible to the Director of the FWS and to the Secretary of the Interior for the administration of the

1 Endangered Species Act (“ESA” or “Act”), 16 U.S.C. §§ 1531-1544, which includes oversight of
2 national consultations on Federal agency actions that are conducted by Ecological Services
3 program staff at FWS’s Headquarters Office. Relevant to this litigation, I provide oversight over
4 the Service’s ESA Section 7(a)(2) consultation involving the U.S. Environmental Protection
5 Agency’s (“EPA”) registration of pesticide products and re-evaluation of active ingredients
6 under the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”).

7
8 2. As part of a settlement agreement reached in *Center for Biological Diversity v. U.S. Fish*
9 *& Wildlife Service, et al.*, Case No. 11-CV-5108-JSW (N.D. Cal.) (“2014 Settlement”), the
10 Service and EPA are currently engaged in consultations involving several pesticide re-
11 evaluations, including malathion, which is the subject of the present case. In compliance with the
12 2014 Settlement, the Service and EPA provided an estimated schedule for completing the
13 nationwide consultations, which included anticipated dates for EPA’s submittal of biological
14 evaluations for those pesticide re-evaluations to FWS, completion of the draft biological opinion,
15 and issuance of FWS’s final biological opinions. According to the 2014 Settlement, all the
16 parties recognized that, although the schedule contained good faith estimates as of the date in
17 which those estimates were provided, the dates could be subject to change. 2014 Settlement at 5,
18 ¶ 5.

19
20 3. On January 18, 2017, the Service received the EPA’s Biological Evaluation (“BE”) on
21 the effects of re-evaluation of malathion under FIFRA. The BE assessed multiple products (a
22 total of 96 products) and numerous authorized uses of malathion products. It determined that the
23 proposed maximum uses authorized by EPA for such products would likely adversely affect
24 ESA-listed species (1,778 in total) and critical habitat designations (784 in total) across the
25 country. Upon receiving the BE, the Service began work on developing a draft analysis of the
26 effects from EPA’s action.
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1 4. During internal review of the draft analysis, legal concerns were raised regarding the
2 draft analysis's preliminary approach of focusing on evaluating the effects from the proposed
3 maximum use authorized by EPA under the product label. The product label, which describes the
4 limitations on how and where malathion may be used, does not, however, necessarily reflect how
5 and where the pesticide will *actually* be applied on the landscape. In light of the ESA's Section 7
6 regulations requiring biological opinions to analyze both the direct effects and the indirect effects
7 that are "reasonably certain to occur" from agency action, the Service determined that additional
8 usage data at a finer, more geographically explicit scale would be necessary for its effects
9 analysis and the preparation of an adequately sound biological opinion. Thus, the Service was
10 unable to issue draft and final biological opinions by the estimated dates previously provided as
11 part of the 2014 Settlement.

12
13 5. On November 14, 2017, pursuant to the ESA's implementing regulations at 50 C.F.R.
14 402.14(f), the Service submitted a letter to EPA requesting specific information on actual use and
15 usage data and seeking an extension to the time frame for the consultation. Because listed species
16 often occur within narrow geographic areas, information on actual use and usage at a more
17 refined spatial scale (e.g., below national and state aggregated scales) is necessary to analyze
18 effects reasonably certain to occur to such species. As explained in the letter, the ESA's
19 implementing regulations define "indirect effects" as "those that are caused by the proposed
20 action and are later in time, but are reasonably certain to occur." 50 C.F.R. 402.02. The letter
21 further explained that the "action area," as defined under ESA implementing regulations, is
22 delineated by these direct and indirect effects. 50 C.F.R. 402.02. In the letter, the Service
23 indicated that, upon receipt of the additional information, it would work with EPA to develop a
24 schedule for completing the consultation.

25 6. On November 17, 2017, EPA responded to the Service's letter and agreed to extend the
26 timeframe for the consultation, provided concurrence was received from the applicants. EPA also
27 indicated that it anticipated providing the requested information within 6 months.
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2 7. In a follow up letter, FWS requested that EPA identify those entities that EPA considered
3 to be applicants, so that FWS could seek their concurrence to the extension. In response, EPA
4 provided the contact information for three technical registrants on January 29, 2018.
5

6 8. On March 28, 2018, EPA provided additional information on usage of malathion in
7 response to the Service's letter of November 14, 2017. The Service, EPA, and the U.S.
8 Department of Agriculture (USDA) determined the best approach was to have regular working
9 meetings to jointly determine what types of data were available in order to incorporate the best
10 available and geographically explicit malathion usage information into the consultation process.
11 To meet this goal, the federal agencies compiled a list of numerous potential sources of
12 information on malathion usage. The agencies reached out to applicants and stakeholders such
13 as the American Mosquito Control Association to solicit their input and assistance. The Service
14 engaged other federal entities such as Bureau of Land Management and Forest Service in order
15 to seek information on malathion usage involving public lands. We also researched malathion
16 usage data from those states that actively maintained records of pesticide usage. Pursuant to the
17 aforementioned data inquiries, we reduced the potential data sources to those sources that are
18 available and that are relevant to understanding how malathion has been used on the landscape,
19 and the Service gathered this information to potentially supplement the usage data provided by
20 EPA. Federal agencies then developed methods to further refine and map potential usage areas
21 by combining multiple sources of information (e.g., aerial imagery and agricultural census data)
22 to better understand where certain crops are grown. We are currently developing methods that
23 apply the gathered usage information to these refined areas to determine where malathion usage
24 is reasonably certain to occur. The Service and EPA are also in the process of assessing the
25 robustness of data for non-agricultural malathion use, such as those for residential, nursery or
26 mosquito aduicide.
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9. In light of tasks that still need to be accomplished to complete the consultation, the Service estimates completing consultation and issuing a final Biological Opinion in March 2021. This anticipated timeframe is based upon our best estimate of how long it will take to complete the following remaining tasks: 1) aggregate and map usage data to redefine the action area; 2) re-analyze effects to listed species and critical habitat; 3) work with EPA and applicants to develop Reasonable and Prudent Measures (RPMs) and Reasonable and Prudent Alternatives (RPAs), as needed; 4) complete review of the draft Biological Opinion by EPA and applicants; 5) provide the draft Biological Opinion for public comment;¹ 6) evaluate and respond to public comments; and 7) finalize the Biological Opinion.

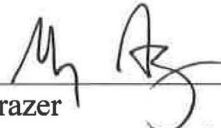
10. With this estimated date for completing the consultation, the Service, via correspondence sent on October 12, 2018 and October 15, 2018, respectively, requested concurrence from the three technical registrants for malathion and the EPA to the extension. Consistent with ESA Section 7(b)(1), the Service and EPA may agree to this extension, provided that the applicants' consent is obtained. EPA has identified these three registrants as the "applicants" for purposes of the FIFRA review process and the ESA consultation for malathion. As the "technical" registrants for malathion, I understand that they produce the active ingredient that is used by manufacturers of end-use products containing malathion, and they are responsible for meeting EPA's data submission standards under FIFRA.

11. EPA agreed to the extension on October 17, 2018. The technical registrants for malathion and applicants for purposes of the consultation, FMC, Loveland Products, Inc., and Drexel Chemical Company, agreed to the extension on October 23, October 25, and October 26, 2018, respectively.

¹ Public review is not generally required for biological opinions. An agreement was reached by EPA, the Service, USDA, and the National Marine Fisheries Service to make these pesticide biological opinions available for public comment pursuant to the Stakeholder Input Process of March 19, 2013.

1 This declaration is made under the provisions of 28 U.S.C. § 1746. I declare under penalty of
2 perjury that the foregoing is true and correct to the best of my current knowledge, information,
3 and belief.

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5 Executed in Washington, D.C., on this 30th day of October 2018.

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7 
8 _____
9 Gary Frazer
10 Assistant Director, Ecological Services
11 U.S. Fish and Wildlife Service
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